

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.26 - RULES GOVERNING THE IDAHO CHILDREN'S SPECIAL HEALTH PROGRAM

DOCKET NO. 16-0226-0801

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-1003 and 56-1019, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

THURSDAY, OCTOBER 2, 2008 7:00 pm	MONDAY, OCTOBER 6, 2008 7:00 pm	THURSDAY, OCTOBER 16, 2008 7:00 pm
Red Lion Hotel on the Falls 475 River Parkway Idaho Falls, ID	Red Lion Hotel Downtowner 1800 Fairview Avenue Boise, ID	Red Lion Templin's Hotel 414 E. First Avenue Post Falls, ID

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purposes of this rulemaking are to modernize the Phenylketonuria (PKU) aspect of the program to take advantage of lower-cost options for the PKU diet. Secondly, these changes are to revise the administrative procedures for billing and collection to make the amount billed to adult PKU patients more equitable, and to restructure the payment collections process to reduce costs to the program. Since the Rules are to be revised, the program has taken the opportunity to replace obsolete language in the Rule; these housekeeping changes will have no substantive effect on program activities or beneficiaries.

The substance of the Rules changes are: (1) to add the full range of medical foods to the program-funded PKU diet, (2) to reduce the fees charged to adult Idahoans with PKU, and (3) to switch the families' sliding fee scale co-pays from a post-service billing/collections model, to a pre-service payment business model.

This chapter of rule will also be updated to meet the current requirements of the Office of Administrative Rules (OAR) and the formatting and plain language standards required by the Department.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

The proposed change switches the Adult PKU patient from a 100% self-pay obligation to a sliding fee scale self-pay obligation. It reduces the amount of program costs that the Department is entitled to collect from patients. However, requiring pre-payment of costs for which the patient is responsible will actually result in a net increase in cost-recovery to the Department. This change to a pre-pay system is expected to have a positive fiscal impact to the Department of approximately \$17,300 in the first year.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

This rule change will have a positive fiscal impact of greater than \$10,000 on the 100% federally-funded section of the Children's Special Health Program. Federal fund savings are anticipated to be ~\$32,400 in the first year, with possible increased savings in future years as the PKU patients become accustomed to using medical foods.

This rule change will have a positive fiscal impact of greater than \$10,000 on State General Funds. State general fund savings are anticipated to be ~\$34,300 in the first year, with possible increased savings in future years as the

adult PKU patients become accustomed to using medical foods.

NEGOTIATED RULEMAKING: Pursuant to 67-5220, Idaho Code, the Children's Special Health Program did not hold any formal or informal negotiated rulemaking sessions. The affected stakeholders are families and clients that order/use PKU formula; identifying those with the disease could inadvertently breach the confidentiality of their medical condition. Furthermore, the proposed changes to the Rules included the addition of a new benefit (metabolic foods for PKU patients) and a reduction in fees for Adult PKU patients. Changes reflecting current standard business practices were also made.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dieuwke Spencer at (208) 334-0670.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2008.

DATED this 20th day of August, 2008.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0226-0801

16.02.26 - ~~RULES GOVERNING~~ THE IDAHO CHILDREN'S SPECIAL HEALTH PROGRAM

000. LEGAL AUTHORITY.

Section 56-1003, Idaho Code directs the Department of Health and Welfare to establish rules as may be necessary to deal with problems related to personal health. The Children's Special Health Program (CSHP) provides medical and rehabilitative services to persons age birth to eighteen (18) years who meet the diagnostic eligibility criteria defined in Sections 101 through 108 of these rules. Section ~~39-147~~ 56-1019, Idaho Code mandates that the Children's Special Health Program also establish a program of services to persons age twenty-one (21) years and older who have cystic fibrosis. The Omnibus Budget Reconciliation Act (OBRA) of 1989 requires that thirty percent (30%) of the Maternal and Child Health Block Grant to each state be committed to programs for children with special health care needs.

(7-1-97)()

001. TITLE AND SCOPE.

01. Title. These rules apply to the administration of the Idaho Children's Special Health Program and are to be cited as IDAPA 16.02.26, "~~Rules Governing~~ The Idaho Children's Special Health Program."

(7-1-97)()

02. Scope of Services. The scope of activities provided by CSHP contractors and private providers such as diagnosis, case management, and treatment. The types of services for which reimbursement is made are related directly to program fiscal resources. Funds available for CSHP are limited in amount. Changes in the scope of

services and in rates of reimbursement may be made by administrative decision should budgetary reductions or cost overruns occur. ()

(BREAK IN CONTINUITY OF SECTIONS)

003. ADMINISTRATIVE APPEALS.

~~All contested cases shall be~~ Administrative appeals are governed by the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (7-1-97)()

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference in this chapter of rules. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. ()

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. ()

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. ()

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. ()

05. Internet Web Site. The Department's internet web site is found at <http://www.healthandwelfare.idaho.gov>. ()

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." ()

02. Public Records. The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. ()

007. -- 009. (RESERVED).

~~004~~010. DEFINITIONS.

For the purposes of these rules, the following terms are used: (7-1-97)

01. Applicant. A person under age eighteen (18) or persons of any age with cystic fibrosis or Phenylketonuria (PKU) seeking services provided by CSHP. (7-1-97)()

02. Children's Special Health Program (CSHP). The program section within the Idaho Department of Health and Welfare, Division of Health, which is responsible for the administration of services leading to the identification, diagnosis, and aftercare of children with special health care needs. (7-1-97)

03. Client. A person under age eighteen (18) with a chronic physically disabling condition which meets one of the diagnostic categories of CSHP or persons of any age with cystic fibrosis or PKU for which he is receiving or has applied to receive services from CSHP. (7-1-97)()

04. Department. The Idaho Department of Health and Welfare. (7-1-97)

05. Diagnosis. The act of identifying a disease from its signs or symptoms. (7-1-97)

06. Division. The Division of Health, a division of the Idaho Department of Health and Welfare, and where CSHP is housed administratively. (7-1-97)

00511. -- 04950. (RESERVED).

050. SERVICES.

~~The scope of activities provided by CSHP contractors such as diagnosis, case management and treatment. The types of services for which reimbursement is made are related directly to program fiscal resources. Funds available for CSHP are limited in amount. Changes in the scope of services and in rates of reimbursement may be made by administrative decision should budgetary reductions or cost overruns occur.~~ (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

052. TREATMENT SERVICES.

Following the diagnostic process, individuals may be closed to further service as having "no eligible condition found." Program-eligible clients are accepted for continuing service coordination under CSHP. Care is provided through clinics where treatment schedules are planned and periodic review of cases are conducted, and through private medical providers. An individual client's treatment plan may cover a variety of related services. (7-1-97)(____)

053. FOLLOW UP AND CASE MANAGEMENT.

CSHP will contract with ~~public health nurses and other district health department program staff~~ care coordinators to follow-up on CSHP clients receiving treatment through the program to assure that a treatment plan is outlined. These staff ~~shall~~ will also implement timely scheduling of medical habilitative and rehabilitative services. (7-1-97)(____)

(BREAK IN CONTINUITY OF SECTIONS)

104. CYSTIC FIBROSIS.

01. Eligible Conditions. In addition to cystic fibrosis, services are also provided under this program to clients ~~twenty-one~~ eighteen (≥18) years of age and under who have Kartagener's Syndrome or immotile cilia. (7-1-97)(____)

02. Services Provided. Services available include Physician's office visits or clinic visits, laboratory, x-ray and other tests ordered by physician, medications and drugs prescribed in connection with treatment of cystic fibrosis, transportation to out-of-state medical centers based on physician referral, and home therapy equipment prescribed by the physician. Genetic counseling clinics are available throughout the state ~~or~~ or contractors, and cystic fibrosis patients and their families are encouraged to make use of this service. (7-1-97)(____)

03. Excluded Services. Inpatient hospital care is not paid for under the CSHP Cystic Fibrosis Program, consistent with CSHP policy of not paying acute care. (7-1-97)

04. Spending Limit. Services provided to eligible patients under the CSHP Cystic Fibrosis Program are subject to a per patient, annual spending limit of eighteen thousand dollars (\$18,000) for each fiscal year, July 1 through June 30. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

107. PHENYLKETONURIA (PKU).

Under this program eligible patients are provided treatment services which include nutritional assessment, dietary counseling and provision of ~~formula~~ medical foods, including formula, in compliance with the patient's treatment plan. ~~Persons over eighteen (18) years of age with PKU may purchase formula from CSHP at CSHP's cost.~~
(7-1-97)()

01. PKU Patients Under Eighteen Years of Age. PKU patients under eighteen (18) years of age may purchase medical foods from CSHP or CSHP's contractor(s) by pre-paying the appropriate percentage, if any, of CSHP's cost. The percentage of cost is based on the sliding fee scale in Section 157 of these rules ()

02. PKU Patients Eighteen Years of Age and Over. PKU patients eighteen (18) years of age and over may purchase medical foods from CSHP or CSHP's contractor(s) by pre-paying the appropriate percentage, if any, of CSHP's cost. The percentage of cost is based on the sliding fee scale described in the sliding fee scale in Subsection 107.02 of this rule.

TABLE 107.02 - SLIDING FEE SCALE FOR ADULT PKU SERVICES.	
<u>Percent of Federal Poverty Level</u>	<u>Percentage of Cost Sharing Responsibility for Responsible Party</u>
0% - 185%	0%
186% -199%	10%
200% - 224%	20%
225% -249%	30%
250% -274%	50%
275% -299%	75%
300% and above	100%

()

(BREAK IN CONTINUITY OF SECTIONS)

~~109. SUPPLEMENTAL SECURITY INCOME (SSI).~~

~~The state CSHP office receives copies of all SSI determinations made in the state and forwards them to the Idaho District Health Department nearest the family. District staff then contact the family to offer CSHP services if appropriate.~~
(7-1-97)

~~1409. -- 148. (RESERVED).~~

149. PROGRAM ELIGIBILITY.

Eligibility for participation in CSHP is based on age, diagnosis, legal residence, insurance status, and financial criteria. Eligibility criteria is explained further in Sections 150 through 157 of these rules. (4-6-05)()

(BREAK IN CONTINUITY OF SECTIONS)

151. AGE.

Applications may be accepted on persons up to age eighteen (18), or any age for persons with cystic fibrosis or ~~phenylketonuria~~ (PKU). With the exception of cystic fibrosis and PKU, CSHP will pay for no services after the patient's 18th birthday unless the person is receiving active inpatient treatment at the time of the birthday. In that case CSHP will pay for services until discharge if they fall within the guidelines described in Section 054 of these rules.

(7-1-97)(____)

(BREAK IN CONTINUITY OF SECTIONS)

153. RESIDENCE.

Applicants must ~~be legal residents of~~ reside in the state of Idaho to receive services from CSHP. ~~Legal residents of neighboring states are not eligible for services. Non citizens who are legal residents of Idaho are eligible to receive services but undocumented aliens are not.~~

(7-1-97)(____)

154. ~~FINANCIAL~~ (RESERVED).

~~All persons who meet the age, diagnostic and residency requirements are eligible to receive CSHP services, regardless of income. Families whose taxable income falls at or below one hundred eighty five percent (185%) of the federal poverty level will be provided CSHP services at no cost. Those families with income above one hundred eighty five percent (185%) of the federal poverty level will share in the costs of treatment as determined by the CSHP sliding scale (see Section 157). Families with incomes great enough to have a financial participation percentage will be billed through CSHP for their share of costs. Payment arrangements can be made through the District Health Department CSHP Coordinator for those families facing significant costs.~~

(7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

157. SLIDING FEE SCALE.

~~A The sliding fee scale in Table 157 of this rule is used to determine the family's percentage of financial participation for a CSHP client's treatment, except for adult PKU. Families with incomes below one hundred eight five percent (185%) of federal poverty guidelines will receive CSHP services at no cost; incomes between one hundred eighty five percent (185%) and one hundred ninety nine percent (199%) will be responsible for ten percent (10%) of costs up to a one thousand eight hundred dollar (\$1,800) maximum; incomes between two hundred percent (200%) and two hundred twenty four percent (224%) will be responsible for twenty percent (20%) of costs up to a three thousand six hundred dollar (\$3,600) maximum; incomes between two hundred twenty five percent (225%) and two hundred forty nine percent (249%) will be responsible for thirty percent (30%) of costs up to a five thousand four hundred dollar (\$5,400) maximum; incomes between two hundred fifty percent (250%) and two hundred seventy four percent (274%) will be responsible for fifty percent (50%) of costs up to a nine thousand dollar (\$9,000) maximum; incomes between two hundred seventy five percent (275%) and two hundred ninety nine percent (299%) will be responsible for seventy five percent (75%) of costs up to a thirteen thousand five hundred dollar (\$13,500) maximum; and incomes of three hundred percent (300%) and above will be responsible for one hundred percent (100%) of costs up to an eighteen thousand dollar (\$18,000) maximum. The adult PKU sliding fee scale is in Section 107 of this rule. Each percentage category includes an annual per-client maximum for which a family would be responsible in any given year. The percentage amount applies to all costs incurred for services provided to ~~their child~~ the client up to the annual maximum indicated.~~

TABLE 157 - SLIDING FEE SCALE FOR CSHP SERVICES (Excluding Adult PKU).		
<u>Percent of Federal Poverty Level</u>	<u>Percentage of Cost Sharing Responsibility for Responsible Party</u>	<u>Annual Maximum Responsibility Per Client</u>
<u>0% - 185%</u>	<u>0%</u>	<u>\$0</u>
<u>186% -199%</u>	<u>10%</u>	<u>\$1,800</u>
<u>200% - 224%</u>	<u>20%</u>	<u>\$3,600</u>
<u>225% -249%</u>	<u>30%</u>	<u>\$5,400</u>
<u>250% -274%</u>	<u>50%</u>	<u>\$9,000</u>
<u>275% -299%</u>	<u>75%</u>	<u>\$13,500</u>
<u>300% and above</u>	<u>100%</u>	<u>\$18,000</u>

(7-1-97)()

(BREAK IN CONTINUITY OF SECTIONS)

200. APPLICATIONS.

An application for services from CSHP ~~shall~~ must, at a minimum, consist of a completed Application Form. A copy of the family's most recent tax return will also be required in order to determine financial eligibility. ~~Idaho Health Districts~~ CSHP may require additional forms such as a Request for Services, Consent for the Release of Information and/or an Authorization to Release Information. Applications are processed by ~~Idaho District Health Department~~ CSHP staff and contractors. Applicants are notified as to their acceptance or denial by ~~the Idaho District Health Department staff~~ a CSHP Care Coordinator. (7-1-97)()

(BREAK IN CONTINUITY OF SECTIONS)

251. PRIOR AUTHORIZATION.

To qualify for payment by CSHP, services other than diagnostic/consultative and follow-up/case management must be preauthorized by the CSHP ~~Health District~~ Care Coordinator or designee. A CSHP Authorization Memo, obtained from the District CSHP Care Coordinator, must be issued for any service authorized under CSHP. (7-1-97)()

(BREAK IN CONTINUITY OF SECTIONS)

258. -- ~~299~~349. (RESERVED).

~~300. ADVISORY GROUP.~~

~~The Medical Advisory Committee of CSHP provides recommendations to the Division of Health.~~ (7-1-97)

~~01. Recommendations. The Medical Advisory Committee provides recommendations regarding the following:~~ (7-1-97)

- ~~a. Future focus and responsibilities of CSHP; (7-1-97)~~
- ~~b. Diagnostic conditions to be covered under the medical benefits aspects of the program; (7-1-97)~~
- ~~c. Scope of services to be covered under each condition; (7-1-97)~~
- ~~d. Definition of clinic categories; (7-1-97)~~
- ~~e. Medical eligibility criteria for clinical attendance; (7-1-97)~~
- ~~f. Clinical standards and staffing requirements for clinic operation; (7-1-97)~~
- ~~g. Policies for medical personnel staffing clinics; (7-1-97)~~
- ~~h. Criteria for medical provider appointment to CSHP clinics; (7-1-97)~~
- ~~i. Provider application forms. (7-1-97)~~
- ~~02. **Appointment.** Members of the Medical Advisory Committee are appointed by the Administrator of the Division of Health. The Medical Advisory Committee may appoint subcommittees which can function as work groups and report to the Committee with recommendations. (7-1-97)~~
- ~~301.—349. (RESERVED).~~

350. PROGRAM EXCLUSIONS.

The following is a list of additional conditions, services and items not covered or paid for by CSHP: (7-1-97)

- 01. Excluded Conditions, Services and Items. (7-1-97)**
 - a. Acute care, such as hospitalization for congestive heart failure or complications of cystic fibrosis. (7-1-97)
 - b. Ambulance/air ambulance charges. (7-1-97)
 - c. Behavior problems. (7-1-97)
 - d. Brain tumors. (7-1-97)
 - e. Biofeedback equipment. (7-1-97)
 - f. Routine dental care. (7-1-97)
 - g. Congenital defects of the gastrointestinal or genitourinary tracts. (7-1-97)
 - h. Cancer care. (7-1-97)
 - i. Cosmetic surgery. (7-1-97)
 - j. Diabetes care. (7-1-97)
 - k. Prescription medicine -- except those prescribed for eligible cystic fibrosis patients. (7-1-97)
 - l. Educational services. (7-1-97)
 - m. Eye care except as related to an eligible condition such as cerebral palsy or juvenile rheumatoid arthritis. (7-1-97)

- n. Eyeglasses. (7-1-97)
- o. Fractures. (7-1-97)
- p. Growth Hormone. (7-1-97)
- q. Hearing problems, except as related to cleft lip and palate. (7-1-97)
- r. Hernias. (7-1-97)
- s. Home health/home nursing services. (7-1-97)
- t. Infectious diseases. (7-1-97)
- u. Legal services. (7-1-97)
- v. Minor foot and leg deformities: flat feet, bow legs, knock knees, pigeon toes, tibial torsion and mild femoral anteversion. (7-1-97)
- w. Neonatal intensive care in the newborn period. (7-1-97)
- x. Orthoptics - visual training therapy. (7-1-97)
- y. Routine pediatric care. (7-1-97)
- z. Prematurity. (7-1-97)
- aa. Pseudohermaphroditism. (7-1-97)
- bb. Psychological or psychiatric care or counseling. (7-1-97)
- cc. Respiratory or pulmonary problems except as related to cystic fibrosis. (7-1-97)
- dd. Respite care. (7-1-97)
- ee. Shoes (corrective or orthopedic). (7-1-97)
- ff. Sleep Apnea Monitors. (7-1-97)
- gg. Spinal disc lesions. (7-1-97)
- hh. Transplants. (7-1-97)
- ii. Transportation to in-town clinics or other regular services. (7-1-97)

02. Individual Consideration. Conditions not specifically identified within these rules as included or excluded by CSHP will be considered on a case by case basis that ~~includes review by the Medical Authorization Review Subcommittee of the CSHP Medical Advisory Committee~~ may include review by a medical advisor. (7-1-97)()

351. -- 9962. (RESERVED).

~~997. CONFIDENTIALITY OF RECORDS.~~

~~Any disclosure of information obtained by the Department is subject to the restrictions contained in Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Disclosure of Department Records."~~ (7-1-97)

~~998. -- 999. (RESERVED).~~